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09/898,573	07/03/2001	Charles E. Reddick	36968-259627	2886

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EXAMINER

VO, TED T

ART UNIT	PAPER NUMBER
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2192

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/898,573

Applicant(s)

REDDICK ET AL.

Examiner

Ted T. Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 35-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to the amendment filed on 03/21/2005.

Claim 53 is added.

Claims 35-53 remain pending in this application.

***Response to Arguments***

2. Applicants arguments given in the remarks filed on 03/21/05 have been fully considered.

In the Remarks, page 7, line 4, Applicants state that Claims 32-52 were rejected. This statement is incorrect.

In Remarks, page 7, line 7, Applicants state that Claim 32 recited, "correct the mobile...". This statement is incorrect.

- With regards to Applicants' arguments that Application modules 45, 46, and 47, are not telecommunication equipments (Remarks: page 7, lines 10-13). Examiner respectfully responds: Since the claimed language does not provide further functionality to make the limitation different from the elements/modules 45, 46, and 47, this interpretation is proper.

- With regards to Applicants' arguments that Flynn does not teach transfer software program from mobile computer to telecommunication equipments (Remarks: page 7, lines 15-17). Examiner respectfully responds: Transfer software program is common in the network. In any networks, if there is transmitter/receiver connection, it has means for transferring. Figure 4 and Figure 6 disclose means for transferring.

- With regards to Applicants' assertion in remarks page 7, in the last 4 lines, the assertion is "Apparently, the Examiner cites page 13, lines 9-27 of Flynn as teaching a guide having these instructions". Examiner respectfully responds: The Applicants' assertion is not true. The Examiner referred this citation as for limitation, *connecting the mobile computer to the telecommunications equipment, accessing the software*

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*program downloaded onto the mobile computer, and transferring the software program from the mobile computer* (Flynn: Figure 6, and see page 13, lines 9-27).

-With regards to Applicants arguments,

"This section of Flynn discuss communications between terminal module 48 and Application module 45, 16, and 47, but does not disclose a guide having instruction for "connecting the mobile computer to the multiplexer, accessing the software program downloaded onto the mobile computer, and transferring the software program from the mobile computer to the multiplexer". Rogers does teach instructions for transferring software to the mobile computer. Rogers fails to teach instructions for "connecting to mobile computer to the telecommunications equipment accessing the software program downloaded onto the mobile computer, and transferring the software program from the mobile computer to the telecommunications equipment" and the subsequent implementation of these instructions as recited in claim 35. Thus, neither Flynn nor Rogers teaches a guide including institutions for "connecting the mobile computer: to the multiplexer, accessing the software program downloaded onto the mobile computer, and transferring the software program from the mobile computer to the multiplexer" as recited in claim 35".

Examiner respectfully responds: First of all, Claims 35 **does not** recite "multiplexer".

As noted that, "instruction" used in the claimed language is only mere "information", "guiding instruction". It is non-functional descriptive material such as text, a paragraph written in a notebook, in a manual guider. Contents of a paragraph, guiding instructions, or information in a text, etc., cannot be a patentable feature. It is just mere information. Such claimed language, "instruction" can be seen in everywhere in a user manual, particularly, seen in Rogers. It also noted that all Internet activities have means of "guiding" of "instructing" as in the manner of the Claims. Any interaction between a user and an operatively device requires having "instruction" or "guide" for assisting the user to use the device. The "instruction" or "guide" could be in a guidebook so that a technician can read, or be stored as data in computer memory so that a technician can browse. Rogers discloses "Guiding/Instruction" stored in memory. Computer data such as information in text, program software, instructions, etc., which are acted as guiding information, are remotely transmittable under any communication networks because they are formed as memory data. A generic "guide" is text/instructions/steps/paragraph that is readable by a web surfer, a computer user. For example, when a web surfer searches information in the Internet, the Internet would return information to assist the Web surfer.

In this particularly case, the combination of Flynn and Rogers discloses such "instructions" to help a technician in such manner of the Claims. The Examiner rationale in the this rejection is very clearly

"Rogers is the reference itself (see whole reference) and/or the Online Guide in CE windows (See reference started at page 50), which is accessible via Internet. The Guide consists of the instructions and figures readable in text format. Therefore, all users or service technicians who have the similar device installed with a computer windows can uses this guide to download or transfer Software online (at the same time) via connections).

And Flynn clearly discloses the means of connections so that with the combination with Rogers, the technician a guide can provide to the technician.

With regards to Applicants' mentioning of Claim 36-50, Applicants do not argue specifically. Thus the citations to these Claims are maintained.

With regards to Applicants argument of Claim 42, Examiner respectfully responds: the functionality in "*sending an electronic mail message to each mobile computer in the network when the update version of the software program is available on the server*" is a manually act. Such functionality cannot be patentable feature. This is done daily and user involving. Flynn: network in Figure 4 or 6 since network has means of sending electronic mail message and any user who uses Flynn' means can get the message and do manually.

With regards to Applicants argument of Claim 45, Examiner respectfully responds: See Figure 6 for the claimed functionality "*wherein the telecommunications equipment comprises a multiplexer*". It shows **multi-connections** to devices 45, 46, and 47. The Claim does not provide any functionality to make *multiplexer* distinguished from such interpretation. Furthermore, multiplexer used in very common.

With regards to Applicants argument of Claims 46-47, Examiner respectfully responds that the elements of the Claims 46-47 are only non-functional descriptive materials. The elements are only the different label, but a software program per se. Thus, "Application module" is appropriated and proper to theses these claimed recitations.

Manny Applicants' arguments are not clear and not correct. Such arguments are not persuasive. Thus 35-52, and newly added Claim 53 stand finally rejected under 35 U.S.C. 103(a) as being

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unpatentable over Flynn et al., PCT No. WO 9939488 A1, "Communication System for Mobile Data transfer", in view of [www.Rogers.com](http://www.Rogers.com), "Portage™ Wireless Connectivity, Quick Start Guide".

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 35-53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al., PCT No. WO 9939488 A1, "Communication System for Mobile Data transfer", in view of [www.Rogers.com](http://www.Rogers.com), "Portage™ Wireless Connectivity, Quick Start Guide (hereafter: Rogers), 10-2000.

Given the broadest reasonable interpretation of followed claims in light of the specification:

As per claim 35: Flynn discloses

*A method of using computerized guide system for transferring a software program from a server in a network to telecommunications equipment in a remote location (Flynn: page 2, lines 21-28, "a set of protocol") using a mobile computer (Flynn: Figure 6, Reference number 48), comprising:*

*loading an updated version of a software program on the network server (Flynn: Figure 6, referring Reference number 25, where the software program is downloaded from);*

*[providing the guide adapted for independent use by a technician having self-guide instructions for accessing the software program on the network server, downloading the software program from the network server to the mobile computer],*

*connecting the mobile computer to the telecommunications equipment, accessing the software program downloaded onto the mobile computer, and transferring the software program from the mobile computer (Flynn: Figure 6, and see page 13, lines 9-27); and*

*[following the instructions on the guide to access the software program on the network server, download the software program from the network server to the mobile computer],*

*connect the mobile computer to the telecommunications equipment, access the software program downloaded onto the mobile computer, and transfer the software program from the mobile computer to the telecommunications equipment (Flynn: Figure 6, referring Reference number 49, where the connection is established by terminal module 48 ('mobile computer') and application module 45, 46, or 47 ('communications equipment')).*

Flynn does not clearly teach the "guide" shown by the limitations within the square brackets above.

Rogers discloses,

*"providing the guide adapted for independent use by a technician having self-guide instructions for accessing the software program on the network server, downloading the software program from the network server to the mobile computer,*

*[connecting the mobile computer to the telecommunications equipment, accessing the software program downloaded onto the mobile computer, and transferring the software program from the mobile computer]; and*

*following the instructions on the guide to access the software program on the network server, download the software program from the network server to the mobile computer"* (The Guide shown by Rogers is the reference itself (see whole reference) and/or the Online Guide in CE windows (See reference started at page 50), which is accessible via internet. The Guide consists of the instructions and figures readable in text format. Therefore, all users or service technicians who have the similar device

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installed with a computer windows can uses this guide to download or transfer Software online (at the same time) via connections).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings, the details in the Guide in the teaching of Rogers and the basic guide (Flynn: Client FTP) in the File Transfer Protocol as taught by Flynn.

Doing so would conform to a standard of guidance that includes texts and guiding instructions written by a technical writer (i.e. it looks like when selling a device it is always included with guiding instructions/booklets for how to use the device), and thus, with the online guide, it would instruct a person who has less technical knowledge could do basic things, thus it has no need for providing costly training.

As per Claim 36: In further view of *telecommunications equipment* as taught by Flynn

Rogers further discloses "*wherein instructions for accessing, downloading, and transferring the software program from the network server re accessible at a plurality of locations at the same time to a plurality of technicians servicing the telecommunications equipment*", because instructions are provided online. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine this teaching with the teaching of connecting *telecommunications equipment* as taught by Flynn. Doing so would take advantage of networks and thus allow software to be accessible at many different locations, and thus, no need to bring equipments back and forth.

With regards to limitations of Claims 37-41, in further view of Flynn:

As per Claim 37: Regarding the guiding means, Rogers further discloses, "*wherein at least one set of instructions further comprises a display of an icon*" (see page 27, second and third paragraph, "[www.palmn.com](http://www.palmn.com)", this web site provides source of software for downloading, furthermore, "Icons" are common used by a website for graphically indicating its type of software. For example, step 3, page 53, shows icons for indicating types of software used in the CE windows).

As per Claim 38: Regarding the guiding means, Rogers discloses, "*wherein the icon is associated with the software program and the at least one set of instructions further comprises a description of the software program associated with the icon*", in the CE windows.



As per Claim 39: Regarding the guiding means, Rogers discloses, *wherein the guide comprises a printed guide*" (The reference is a printed guide)

As per Claim 40: Regarding the guiding means, Rogers discloses, *"wherein the guide comprises an on-line guide"* (see page 3, Web Acceleration).

As per Claim 41: Rogers discloses, *"wherein providing the guide further comprises providing an online guide and wherein after followings the instructions in the printed guide the method further comprises following the instruction in the on-line guide only* (The reference is printed guide, and it mentions internet guide by using network connections).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to further include these teachings of Rogers, with the teaching of connecting *telecommunications equipment* as taught by Flynn. Doing so would conform to a guiding standard, thus have no need for providing costly training.

With regards to limitations of Claims 42-49, Flynn further discloses:

As per Claim 42: Regarding the basic guide, Flynn further discloses *"sending an electronic mail message to each mobile computer in the network when the update version of the software program is available on the server"* (Flynn: See network in Figure 4 or 6 since network has means of sending electronic mail message).

As per Claim 43: Regarding the basic guide, Flynn further discloses, *"loading an updated version of software program on the network server further comprises loading the updated version of the software program for each of a plurality of equipment in use in a telecommunications system"* (Flynn: See Figure 6).

As per Claim 44: Regarding the basic guide, Flynn further discloses, *"comprise instructions for accessing software programs for the telecommunications equipment of a plurality of vendors* (Flynn: See Figure 6: Numeral references 45, 46, 47: 'vendors'; See page 2, line 26, FTP: 'accessing software programs').

As per Claim 45: Regarding the basic guide, Flynn further discloses, "*wherein the telecommunications equipment comprises a multiplexer*" (Flynn: See Figure 6, multi-connection to devices 45, 46, and 47).

As per Claim 46: Regarding the basic guide, Flynn further discloses, "*software program comprises a digital loop electronic software program*" (Flynn: See page 9, lines 1-7, a plurality of separate application modules: '*a digital loop electronics software program*').

As per Claim 47: Regarding the basic guide, Flynn further discloses, "*wherein the software program comprises a testing software program*" (Flynn: See page 9, lines 1-7, a plurality of separate application modules: '*a testing software program*').

As per Claim 48: Regarding the basic guide, Flynn further discloses, "*wherein the instructions for accessing a software program on the server further comprise instructions for accessing and using software programs for mobile computer tools*" (Flynn: See page 2, line 26, FTP: '*instructions for accessing software programs*'). Note following the FTP, a user can select (Page 9, lines 1-7) a plurality of separate application modules: '*for accessing and using software programs for mobile computer tools*').

As per Claim 49: Regarding the basic guide, Flynn further discloses, "*wherein the instructions for accessing a software program on the server further comprise instructions for accessing and using software programs for servicing radio functions on mobile computers*" (Flynn: See page 2, line 26, FTP: '*instructions for accessing software programs*'). Note following the FTP, a user can select (Page 9, lines 1-7) a plurality of separate application modules: '*for accessing and using software programs for servicing radio functions on mobile computers*').

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further include these teachings of Flynn and the Guide of Rogers.

Doing so would conform to a standard of guidance that includes texts and instructions (i.e. it looks like when selling a device it is always included with guiding instructions/booklets for how to use the device), and thus, with the online guide, it would instruct a person who has less technical knowledge could do basic things, thus it has no need for providing costly training.

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As per Claim 51: Claim 51 recites a method that has claimed functionality corresponding to claimed limitation of Claim 35. Therefore, Claim 51 is rejected in the same reason set forth in connection to the rejection of Claim 35.

As per Claim 52: Claim 52 recites a method that has claimed functionality corresponding to claimed limitation of Claim 45. Therefore, Claim 52 is rejected in the same reason set forth in connection to the rejection of Claim 45.

As per Claim 53: Claim 53 recites a method that has claimed functionality corresponding to claimed limitation of Claim 35 and 42. Therefore, Claim 53 is rejected in the same reason set forth in connection to the rejection of Claims 35 and 42.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3694. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ted T. Vo  
Primary Examiner  
Art Unit 2192  
May 26, 2005